

**UNITED STATES DISTRICT COURT for
EASTERN DISTRICT OF NEW YORK**

-----X

DWAYNE J. SCOTT and DERELL J.
MEYNARD, individually and on behalf of all
others similarly situated,

Plaintiffs,

**SECOND
SHOW CAUSE
ORDER**

- against -

CV 18-86 (SJF) (AKT)

WHOLE FOODS MARKET GROUP, INC.

Defendant.

-----X

A. KATHLEEN TOMLINSON, Magistrate Judge:

**To: Dwayne J. Scott
13921 SW 22nd Pl.
Davie, FL 33325**

This case was set down for a Show Cause Hearing today by order of the Court dated September 18, 2019. Plaintiff Dwayne J. Scott was directed to appear at 11 AM and show cause why the Moser Law Firm, P. C. should not be relieved as counsel of record for Dwayne J. Scott in this action. The Court has learned that a process server in Florida made four attempts to serve Mr. Scott personally at the residence address, but was unsuccessful. Attorney Moser also submitted a Declaration stating that he obtained an address for Mr. Scott through an investigator in Florida. On September 20, 2019, Attorney Moser mailed a copy of the September 18, 2019 Order of this Court to Mr. Scott at the address furnished by the investigator. That mail was not returned to Attorney Moser and so delivery is presumed. In addition, Attorney Moser states that he spoke to Mr. Scott by telephone on October 3, 2019 and discussed the status of this action. Mr. Scott provided his address and Attorney Moser mailed the Court's Order once again. That mailing also was not returned.

This is a **final opportunity and a warning** to Plaintiff Dwayne Scott. It is hereby **ORDERED**, that **DWAYNE J. SCOTT APPEAR IN PERSON BEFORE THIS COURT, THE HON. A. KATHLEEN TOMLINSON PRESIDING, AT THE ALFONSE D'AMATO FEDERAL COURTHOUSE, 100 FEDERAL PLAZA, CENTRAL ISLIP, NEW YORK IN COURTROOM 910 ON NOVEMBER 14, 2019 AT 2:30 P.M., AND SHOW CAUSE WHY THE MOSER LAW FIRM, P.C., SHOULD NOT BE RELIEVED AS COUNSEL OF RECORD FOR DWAYNE J. SCOTT IN THIS ACTION**; and it is further

ORDERED, that Attorney Moser appear by telephone at the November 14, 2019 Show Cause Hearing; and it is further

ORDERED, that the Moser Law Firm, P.C., shall remain counsel of record for Dwayne J. Scott and Derell J. Meynard until the further Order of this Court; and it is further

ORDERED, that counsel for the Defendant may attend the hearing by telephone

ORDERED, that Attorney Moser shall serve Dwayne J. Scott with a copy of this Order **personally** no later than October 28, 2019 as well as by first-class mail and shall file proof of such **service promptly on ECF**.

Plaintiff Dwayne J. Scott is hereby on notice that any failure to appear and/or respond to this Show Cause Order will result in this Court (1) relieving the Moser law firm from its representation of Dwayne J. Scott and (2) making a recommendation to Judge Feuerstein , that's plaintiff Dwayne J. Scott's claims in this action be dismissed for failure to prosecute and for failure to comply with the Orders of this Court.

SO ORDERED.

Dated: Central Islip, New York
October 17, 2019

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
United States Magistrate Judge